

disposal sites. Gerald Harris and Emily Kirksen from the Project Performance Corporation, a contractor working for the United States Department of Justice, accompanied me on this visit.

4. Prior to the visit, I reviewed the standard forms (SF 135s) used by the Corps of Engineers to transmit records to federal record centers and other offsite storage facilities. These SF 135s were contained in the Detroit District's complete set of SF 135s recently provided to Menasha Corporation. After I identified documents that may potentially be related to dredging quantities and open water disposal dating back as far as the 1920's, I contacted the Federal Records Center (FRC) in Chicago to verify the location of the identified records and was told that the records had been transferred to the Chicago NARA Facility. The archivist in charge of the records at NARA was Scott Forsythe.

5. On July 7, 2009, I faxed Mr. Forsythe copies of the SF 135s and indicated the records I wished to review during my visit on July 9 and 10, 2009. This request identified six boxes of documents and three tubes of drawings. Mr. Forsythe sent me the Chicago NARA Facility brochure providing directions and other general information about the Facility.

6. Upon arriving at the Chicago NARA Facility on July 9, 2009, we obtained researcher cards and were taken to the general reading room where Mr. Forsythe greeted us and explained the procedures of the Facility. Mr. Forsythe then directed me and the two employees from Project Performance Corporation to the six boxes of documents and three tubes of drawings I had requested. We spent most of the day reviewing these documents and designating various documents for copying.

7. On July 9 and 10, 2010, we also reviewed Chicago NARA Facility's finding aids for the Chicago, Detroit, and, Milwaukee Districts of the Corps plus the Great Lakes Division and the North Central Division to which the Detroit District reported. The Milwaukee District

and North Central Division no longer exist. Both Milwaukee and Chicago Districts formerly had responsibilities for Corps operation and maintenance activities on the Lower Fox River and Green Bay. The review added Chicago District documents related to dredging quantities for copying.

8. The Chicago NARA Facility assessed me a standard per page charge for copies of the documents we requested. I was reimbursed this cost by filing a travel voucher.

9. All the documents reviewed at the Chicago NARA Facility were obtainable based on the available finding aids.

10. I did not ask for and was not offered any special rights of access or special privileges in reviewing documents at the Chicago NARA Facility; rather, I believe I was given the same opportunity to use the finding aids as the general public.

11. During my time at the Chicago NARA Facility, I found staff to be helpful, courteous, and efficient; however, to the best of my knowledge, I was not treated in a matter distinct or different from other researchers at the Facility.

12. Between 2007 and 2010, the Detroit District gathered documents pertaining to the Lower Fox River and Green Bay Superfund Site, Green Bay, Wisconsin. These documents included: (1) sediment quality sampling data through 2006; (2) planning reports pertaining to Fox River and Green Bay Harbor navigation projects, closure of the Renard Island confined disposal facility, and the design and operation of the Bayport and Renard Island confined disposal facilities; (3) National Environmental Policy Act assessments of potentially relevant federal actions (including navigational dredging, disposal facility construction, and conveyance of the Fox River locks to the State of Wisconsin); (4) confined disposal facility operation manuals dating back to 1984; (5) annual reports to Congress on Fox River and Green Bay

dredging from 1878, 1879, 1943, and 1949-2005; (6) local sponsor agreements with Brown County and the City of Green Bay relating to dredging of the Fox River and Green Bay; (8) records approximating annual dredging volumes; and (9) historic navigation project maps. These documents and the documents obtained from the Chicago NARA Facility were sent to the Department of Justice who later provided them to the Menasha Corporation.

13. In 2012, I also assumed responsibility for organizing the Detroit District's search for responsive records relating to the Menasha Corporation's several document production requests in the matter of United States v. NCR Corporation, Civil Action No. 1:10-cv-910. As part of this responsibility, my duties included coordinating document searches both within the Detroit District's headquarters office and the Detroit District's area offices and suboffices, including its Kewaunee and Kaukauna, Wisconsin suboffices; the Lake Michigan area office in Grand Haven, Michigan; the Soo area office in Sault Ste. Marie, Michigan; the Duluth area office in Duluth, Minnesota; and the Detroit area office in Detroit, Michigan.

14. In the course of its response to Menasha's discovery, the Corps collected responsive paper documents from individual employees within the offices identified above, relating to Defendants' several requests for production. Subjects for which responsive documents were identified and provided included all documents related to the construction, operation and maintenance of the Fox River, including the Locks and Dams, and the Green Bay Harbor federal navigation projects. This included, but was not limited to, documents concerning dredging, disposal of dredge material, construction, operation, and maintenance of disposal areas; environmental impacts, sediment testing, the operation and maintenance of dams and locks, and agreements with local communities, e.g., Brown County and the City of Green Bay, related to dredging of the Fox River and Green Bay.

15. The Detroit District, also, reviewed the SF-135s maintained by the District in order to identify additional responsive documents. This review was performed by District's Records Manager and Records Coordinators, as well as, the Chief of Planning and the Chief of Programs and Projects Management. All reviewers previously had been trained by the Records Manager to ensure they were familiar with the SF-135s. I provided guidance on the subject matter and keywords for the review so that all boxes containing responsive documents were identified. I determined the SF-135s concerning work the Detroit District performed on behalf of the Environmental Protection Agency, but unrelated to the Lower Fox River and Green Bay Superfund Site, did not contain responsive documents. The United States has produced all the District's SF-135s to Menasha, which totaled approximately 7,200 pages.

16. Based on this review the Records Manager retrieved boxes from offsite storage locations, including FRCs located in Chicago, Illinois and Dayton, Ohio, as well as, facilities owned and operated by the Iron Mountain Corporation in Michigan. Four boxes from the FRC in Dayton, Ohio were sent directly to the Department of Justice, because they mostly contained responsive dredging contract documents. The remaining nine from the FRCs along with all the boxes from the Iron Mountain Corporation were reviewed by Detroit District employees for responsive documents. This review was conducted by the Chief of Operations, the Chief of Programs and Projects Management, the Chief of Environmental and Analysis Branch, the Records Coordinator for Engineering and Design, the Chief of Geotechnical and Structures, and the Chief of Plan Formulation. I talked to each reviewer to ensure they were able to identify all responsive documents and understood the procedure for sending these documents to the Department of Justice.

17. The responsive documents were reviewed for possible privileged material before being sent. I personally reviewed the documents for privileged material from boxes identified as originating from the District's Office of Counsel.

18. It is my understanding that the Detroit District also made thousands of oversized documents collected from its Kewaunee and Kaukauna suboffices available for Menasha's review and inspection in Milwaukee, Wisconsin. These documents were transferred directly from Kewaunee and Kaukauna to Milwaukee and I did not play a significant role in overseeing the transmittal of these records.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on: September 13, 2012

s/ Don C. Erwin

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing Declaration to be served on counsel of record via e-mail to:

Mary Rose Alexander
Latham & Watkins LLP
mary.rose.alexander@lw.com

Thomas Armstrong
von Briesen & Roper SC
tarmstro@vonbriesen.com

Paul Bargren
Foley & Lardner LLP
pbargren@foley.com

Linda E. Benfield
Foley & Lardner LLP
lbenfield@foley.com

Dennis P. Birke
DeWitt Ross & Stevens SC
db@dewittross.com

Steven P. Bogart
Reinhart Boerner Van Deuren SC
sbogart@reinhartlaw.com

Michael P. Carlton
von Briesen & Roper SC
mcarlton@vonbriesen.com

Evan R. Chesler
Cravath Swaine & Moore LLP
echesler@cravath.com

Francis A. Citera
Greenberg Traurig LLP
citeraf@gtlaw.com

Marc E. Davies
Greenberg Traurig LLP
daviesm@gtlaw.com

David R. Erickson
Shook Hardy & Bacon LLP
derickson@shb.com

S. Todd Farris
Friebert Finerty & St. John SC
stf@ffsj.com

Patrick J. Ferguson
Latham & Watkins LLP
patrick.ferguson@lw.com

Charles Fried
fried@law.harvard.edu

Sandra C. Goldstein
Cravath Swaine & Moore LLP
sgoldstein@cravath.com

Thomas R. Gottshall
Haynsworth Sinkler Boyd PA
lgantt@hsblawfirm.com

Eric W. Ha
Sidley Austin LLP
eha@sidley.com

Scott W. Hansen
Reinhart Boerner Van Deuren SC
shansen@reinhartlaw.com

William H. Harbeck
Quarles & Brady LLP
william.harbeck@quarles.com

Cynthia R. Hirsch
Wisconsin Department of Justice
hirschcr@doj.state.wi.us

Margaret I. Hoefer
Stafford Rosenbaum LLP
mhoefer@staffordlaw.com

Caleb J. Holmes
Greenberg Traurig LLP
holmesc@gtlaw.com

Philip C. Hunsucker
Hunsucker Goodstein PC
phunsucker@hgnlaw.com

Peter C. Karegeannes
Quarles & Brady LLP
peter.karegeannes@quarles.com

Paul G. Kent
Stafford Rosenbaum LLP
pkent@staffordlaw.com

Gregory A. Krauss
Gregory Krauss pllc
gkrauss@krausspllc.com

Linda R. Larson
Marten Law PLLC
llarson@martenlaw.com

Vanessa A. Lavelly
Cravath Swaine & Moore LLP
vlavelly@cravath.com

Susan E. Lovern
von Briesen & Roper SC
slovern@vonbriesen.com

Anne E. Lynch
Hunsucker Goodstein PC
alynch@hgnlaw.com

Kevin J. Lyons
Davis & Kuelthau SC
klyons@dkattorneys.com

Karl S. Lytz
Latham & Watkins LLP
karl.lytz@lw.com

Meline G. MacCurdy
Marten Law
mmaccurdy@martenlaw.com

David G. Mandelbaum
Greenberg Traurig LLP
mandelbaumd@gtlaw.com

Bradley M. Marten
Marten Law
bmarten@martenlaw.com

Tara M. Mathison
Davis & Kuelthau SC
tmathison@dkattorneys.com

Allison E. McAdam
Hunsucker Goodstein PC
amcadam@hgnlaw.com

Darin P. McAtee
Cravath Swaine & Moore LLP
dmcatee@cravath.com

Stephen F. McKinney
Haynsworth Sinkler Boyd PA
smckinney@hsblawfirm.com

Heidi D. Melzer
Melzer Law, LLC
hmelzer@melzerlaw.com

Elizabeth K. Miles
Davis & Kuelthau SC
emiles@dkattorneys.com

William J. Mulligan
Davis & Kuelthau SC
wmulligan@dkattorneys.com

Daniel C. Murray
Johnson & Bell Ltd.
murrayd@jbltd.com

Omid H. Nasab
Cravath Swaine & Moore LLP
onasab@cravath.com

Kelly J. Noyes
von Briesen & Roper SC
knoyes@vonbriesen.com

Nancy K. Peterson
Quarles & Brady LLP
nancy.peterson@quarles.com

Thomas M. Phillips
Reinhart Boerner Van Deuren SC
tphillip@reinhartlaw.com

Ian A.J. Pitz
Michael Best & Friedrich LLP
iapitz@michaelbest.com

David A. Rabbino
Hunsucker Goodstein PC
drabbino@hgnlaw.com

Ronald R. Ragatz
DeWitt Ross & Stevens SC
rrr@dewittross.com

Kathleen L. Roach
Sidley Austin LLP
kroach@sidley.com

Megan A. Senatori
DeWitt Ross & Stevens SC
ms@dewittross.com

Adam B. Silverman
Greenberg Traurig LLP
silvermana@gtlaw.com

M. Andrew Skierawski
Friebert Finerty & St. John SC
mas@ffsj.com

Sarah A. Slack
Foley & Lardner LLP
sslack@foley.com

Margaret R. Sobota
Sidley Austin LLP
msobota@sidley.com

Arthur A. Vogel, Jr.
Quarles & Brady LLP
arthur.vogel@quarles.com

Anthony S. Wachewicz, III
City of Green Bay
tonywa@ci.green-bay.wi.us

James P. Walsh
Appleton City Attorney
jim.walsh@appleton.org

Ted A. Warpinski
Friebert Finerty & St John SC
taw@ffsj.com

Ted Waskowski
Stafford Rosenbaum LLP
twaskowski@staffordlaw.com

Evan B. Westerfield
Sidley Austin LLP
evanwesterfield@sidley.com

Richard C. Yde
Stafford Rosenbaum LLP
ryde@staffordlaw.com

Dated: September 17, 2012

s/ Randall M. Stone